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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,613	10/29/2003	Gerhard Kastenhofer	1001.1291103	9625

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

EXAMINER	
VU, QUYNH-NHU HOANG	
ART UNIT	**PAPER NUMBER**
3763	

MAIL DATE	DELIVERY MODE
11/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/697,613	KASTENHOFER, GERHARD	
	Examiner	Art Unit	
	Quynh-Nhu H. Vu	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 November 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Amendment filed on 11/08/07 has been entered.

Claims 11-21 are present for examination.

Claims 1-10 are cancelled.

Applicant's arguments with respect to claims 11-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Preissman et al. (US 5,728,063).

Preissman discloses a catheter comprising: a first catheter tube 102 having at least two superposed layers of materials, an inner layer 108, an outer layer 110; secured together with a mediator layer 112 or 114, and with mechanical properties differing from one another, a lumen in the first catheter tube, and a balloon 106 sealing surrounding the first catheter tube; the outer layer 110 comprises a polymer, i.e. polyamide (col. 7, lines 54-60) and forms an outer surface of the first catheter tube; wherein the first catheter tube includes a distal end and the outer layer extends to the distal end of the first catheter tube (Fig. 4). A second catheter tube 104 disposed about the first catheter tube; wherein a proximal end of balloon is connected to a distal end of the second tube, and a distal end of the balloon is connected to a distal end of the first tube.

Preissman further discloses the inner layer 108 comprises of polymer or the like (col. 7, lines 5-15), therefore, the inner layer can be made of high-density polyethylene; the mediator layer made of

polymeric fibers (col. 5, lines 15-30), therefore, the mediator layer can be made of a low-density polyethylene.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the inner and mediator made of high and low density polyethylene, as described above, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Preissman et al. (US 5,728,063) in view of Gold et al. (US 4,636,346).

Regarding claims 18-21, Preissman discloses a catheter comprising: a first catheter tube 102 comprising: an outer most layer 110 comprising a polymer having a first coefficient of friction; an inner most layer 108 coextensive with the outermost layer 110 and forming a lumen; the inner most layer 108 comprises a polymer having a second coefficient; a middle layer 112, 114 disposed between the outermost layer 110 and the innermost layer 108 and affixing the outermost layer to the innermost layer; a second tube 104 disposed about a portion of the first tube; and a balloon 106 with a distal end sealing surrounding the outermost layer of the first tube and a proximal end sealingly surrounding the second tube. Preissman does not clearly disclose that the inner most layer having a second coefficient of friction which is less than the first coefficient of friction of outer most layer.

Gold discloses that a tube 22 comprising an outermost layer 33 comprising a polymer (col. 4, lines 57-67), such as low density polyethylene (high coefficient of friction); an inner most layer 31 is made of superior lubricity material, copolymers of ethylene (col. 4, lines 12-25). It is noted that if material with superior high lubricity, it will have low coefficient of friction.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Preissman with a different coefficient of friction, as taught by Gold, in order to provide an improved intravascular guiding catheter and resistant to kinking.

Furthermore, one skill in the art would recognize that the outermost layer made of low coefficient of friction to easy moving within the vessel or prevent the guide wire clogging in the guide wire lumen of the catheter tube (Applicant Admitted Prior Art, page 2, lines 18-27)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh-Nhu H. Vu whose telephone number is 571-272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Quynh-Nhu H. Vu
Examiner
Art Unit 3763